

Assembly Bill No. 2167

Passed the Assembly August 18, 2016

Chief Clerk of the Assembly

Passed the Senate August 11, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 22513 and 22513.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2167, Achadjian. Vehicles: towed vehicles.

Existing law requires a business taking possession of a vehicle from a tow truck to document specified information, including the make, model, and license plate or vehicle identification number of the vehicle. Existing law requires a business taking possession of a vehicle to obtain the specified information from the towing company the next day if the vehicle was dropped off after hours. Existing law requires the information to be maintained for 3 years and to be made available for inspection and copying within 48 hours of a written request by any officer or agent of a police department, a sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, the Bureau of Automotive Repair, a district attorney's office, or a city attorney's office. A willful violation of these requirements is a misdemeanor, as specified.

This bill would specify that a business is required to document the specified information described above when it takes possession of a vehicle from a tow truck during hours the business is open to the public and would also authorize the business to document the tow truck driver's identification number, as specified, or another government authorized unique identifier of the tow truck operator. The bill would require a business taking possession of a vehicle from a tow truck when the business is closed to the public to document the make, model, and license plate or vehicle identification number of the vehicle and the date and time that the business first observed the vehicle on its property. A business taking possession of a vehicle from a tow truck when the business is closed to the public would also be required to make reasonable efforts to contact the towing company and the vehicle's owner or operator to document specified information from the towing company. The bill would delete the requirement that a business taking possession of a vehicle from a tow truck when the business

is closed obtain specified information from the towing company by the next day.

Existing law makes it a misdemeanor for a towing company or the owner or operator of a tow truck to stop or cause a person to stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting an engagement for towing services, to furnish towing services, to move a vehicle when the vehicle has been left unattended or when there is an injury as the result of an accident, or to accrue charges for services furnished under those circumstances, unless requested or summoned to perform that service. Existing law requires a towing company or the owner or operator of a tow truck to possess specified information in writing about the disabled vehicle. Existing law requires the information to be maintained for 3 years and to be made available for inspection and copying within 48 hours of a written request by any officer or agent of a police department, a sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, a district attorney's office, or a city attorney's office.

This bill would require a towing company or the owner or operator of a tow truck to possess specified information in writing about the disabled vehicle and to maintain that information, as specified when it alleges it was requested or summoned to the scene.

The people of the State of California do enact as follows:

SECTION 1. Section 22513 of the Vehicle Code is amended to read:

22513. (a) (1) It is a misdemeanor for a towing company or the owner or operator of a tow truck to stop or cause a person to stop at the scene of an accident or near a disabled vehicle for the purpose of soliciting an engagement for towing services, either directly or indirectly, to furnish towing services, to move a vehicle from a highway, street, or public property when the vehicle has been left unattended or when there is an injury as the result of an accident, or to accrue charges for services furnished under those circumstances, unless requested to perform that service by a law enforcement officer or public agency pursuant to that agency's

procedures, or unless summoned to the scene or requested to stop by the owner or operator of a disabled vehicle.

(2) (A) A towing company or the owner or operator of a tow truck summoned, or alleging it was summoned, to the scene by the owner or operator of a disabled vehicle shall possess all of the following information in writing prior to arriving at the scene:

(i) The first and last name and working telephone number of the person who summoned it to the scene.

(ii) The make, model, year, and license plate number of the disabled vehicle.

(iii) The date and time it was summoned to the scene.

(iv) The name of the person who obtained the information in clauses (i), (ii), and (iii).

(B) A towing company or the owner or operator of a tow truck summoned, or alleging it was summoned, to the scene by a motor club, as defined by Section 12142 of the Insurance Code, pursuant to the request of the owner or operator of a disabled vehicle is exempt from the requirements of subparagraph (A), provided it possesses all of the following information in writing prior to arriving at the scene:

(i) The business name of the motor club.

(ii) The identification number the motor club assigns to the referral.

(iii) The date and time it was summoned to the scene by the motor club.

(3) A towing company or the owner or operator of a tow truck requested, or alleging it was requested, to stop at the scene by the owner or operator of a disabled vehicle shall possess all of the following information in writing upon arriving at the scene:

(A) The first and last name and working telephone number of the person who requested the stop.

(B) The make, model, and license plate number, if one is displayed, of the disabled vehicle.

(C) The date and time it was requested to stop.

(D) The name of the person who obtained the information in subparagraphs (A), (B), and (C).

(4) A towing company or the owner or operator of a tow truck summoned or requested, or alleging it was summoned or requested, by a law enforcement officer or public agency pursuant to that agency's procedures to stop at the scene of an accident or near a

disabled vehicle for the purpose of soliciting an engagement for towing services, either directly or indirectly, to furnish towing services, or that is expressly authorized to move a vehicle from a highway, street, or public property when the vehicle has been left unattended or when there is an injury as the result of an accident, shall possess all of the following in writing before leaving the scene:

(A) The identity of the law enforcement agency or public agency.

(B) The log number, call number, incident number, or dispatch number assigned to the incident by law enforcement or the public agency, or the surname and badge number of the law enforcement officer, or the surname and employee identification number of the public agency employee.

(C) The date and time of the summons, request, or express authorization.

(5) For purposes of this section, “writing” includes electronic records.

(b) The towing company or the owner or operator of a tow truck shall make the written information described in subdivision (a) available to law enforcement, upon request, from the time it appears at the scene until the time the vehicle is towed and released to a third party, and shall maintain that information for three years. The towing company or owner or operator of a tow truck shall make that information available for inspection and copying within 48 hours of a written request from any officer or agent of a police department, sheriff’s department, the Department of the California Highway Patrol, the Attorney General’s office, a district attorney’s office, or a city attorney’s office.

(c) (1) Prior to attaching a vehicle to the tow truck, if the vehicle owner or operator is present at the time and location of the anticipated tow, the towing company or the owner or operator of the tow truck shall furnish the vehicle’s owner or operator with a written itemized estimate of all charges and services to be performed. The estimate shall include all of the following:

(A) The name, address, telephone number, and motor carrier permit number of the towing company.

(B) The license plate number of the tow truck performing the tow.

(C) The first and last name of the towing operator, and if different than the towing operator, the first and last name of the person from the towing company furnishing the estimate.

(D) A description and cost for all services, including, but not limited to, charges for labor, special equipment, mileage from dispatch to return, and storage fees, expressed as a 24-hour rate.

(2) The tow truck operator shall obtain the vehicle owner or operator's signature on the itemized estimate and shall furnish a copy to the person who signed the estimate.

(3) The requirements in paragraph (1) may be completed after the vehicle is attached and removed to the nearest safe shoulder or street if done at the request of law enforcement or a public agency, provided the estimate is furnished prior to the removal of the vehicle from the nearest safe shoulder or street.

(4) The towing company or the owner or operator of a tow truck shall maintain the written documents described in this subdivision for three years, and shall make them available for inspection and copying within 48 hours of a written request from any officer or agent of a police department, sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, a district attorney's office, or a city attorney's office.

(5) This subdivision does not apply to a towing company or the owner or operator of a tow truck summoned to the scene by a motor club, as defined by Section 12142 of the Insurance Code, pursuant to the request of the owner or operator of a disabled vehicle.

(6) This subdivision does not apply to a towing company or the owner or operator of a tow truck summoned to the scene by law enforcement or a public agency pursuant to that agency's procedures, and operating at the scene pursuant to a contract with that law enforcement agency or public agency.

(d) (1) Except as provided in paragraph (2), a towing company or the owner or operator of a tow truck shall not charge a fee for towing or storage, or both, of a vehicle in excess of the greater of the following:

(A) The fee that would have been charged for that towing or storage, or both, made at the request of a law enforcement agency under an agreement between a towing company and the law enforcement agency that exercises primary jurisdiction in the city in which the vehicle was, or was attempted to be, removed, or if not located within a city, the law enforcement agency that exercises

primary jurisdiction in the county in which the vehicle was, or was attempted to be, removed.

(B) The fee that would have been charged for that towing or storage, or both, under the rate approved for that towing operator by the Department of the California Highway Patrol for the jurisdiction from which the vehicle was, or was attempted to be, removed.

(2) Paragraph (1) does not apply to the towing or transportation of a vehicle or temporary storage of a vehicle in transit, if the towing or transportation is performed with the prior consent of the owner or operator of the vehicle.

(3) No charge shall be made in excess of the estimated price without the prior consent of the vehicle owner or operator.

(4) All services rendered by a tow company or tow truck operator, including any warranty or zero cost services, shall be recorded on an invoice, as described in subdivision (e) of Section 22651.07. The towing company or the owner or operator of a tow truck shall maintain the written documents described in this subdivision for three years, and shall make the documents available for inspection and copying within 48 hours of a written request from any officer or agent of a police department, sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, a district attorney's office, or a city attorney's office.

(e) A person who willfully violates subdivision (b), (c), or (d) is guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.

(f) This section shall not apply to the following:

(1) A vehicle owned or operated by, or under contract to, a motor club, as defined by Section 12142 of the Insurance Code, which stops to provide services for which compensation is neither requested nor received, provided that those services may not include towing other than that which may be necessary to remove the vehicle to the nearest safe shoulder. The owner or operator of that vehicle may contact a law enforcement agency or other public agency on behalf of a motorist, but may not refer a motorist to a tow truck owner or operator, unless the motorist is a member of the motor club, the motorist is referred to a tow truck owner or

operator under contract to the motor club, and, if there is a dispatch facility that services the area and is owned or operated by the motor club, the referral is made through that dispatch facility.

(2) A tow truck operator employed by a law enforcement agency or other public agency.

(3) A tow truck owner or operator acting under contract with a law enforcement or other public agency to abate abandoned vehicles, or to provide towing service or emergency road service to motorists while involved in freeway service patrol operations, to the extent authorized by law.

SEC. 2. Section 22513.1 of the Vehicle Code is amended to read:

22513.1. (a) (1) A business taking possession of a vehicle from a tow truck during hours the business is open to the public shall document all of the following:

(A) The name, address, and telephone number of the towing company.

(B) The name and driver's license number, driver's identification number issued by a motor club, as defined in Section 12142 of the Insurance Code, or other government authorized unique identifier of the tow truck operator.

(C) The make, model, and license plate or Vehicle Identification Number.

(D) The date and time that possession was taken of the vehicle.

(2) For purposes of subparagraph (B) of paragraph (1), if a tow truck operator refuses to provide information described in subparagraph (B) of paragraph (1) to a new motor vehicle dealer, as defined in Section 426, a new motor vehicle dealer is in compliance with this section if the new motor vehicle dealer documents the reasonable efforts made to obtain this information from the tow truck operator.

(b) A business taking possession of a vehicle from a tow truck when the business is closed to the public shall document all of the following:

(1) The make, model, and license plate or vehicle identification number.

(2) The date and time that the business first observed the vehicle on its property.

(3) The reasonable effort made by the business to contact the towing company, if identifying information was left with the

vehicle, and the vehicle's owner or operator to obtain and document both of the following:

(A) The name, address, and telephone number of the towing company.

(B) The name and driver's license number, driver's identification number issued by a motor club, as defined in Section 12142 of the Insurance Code, or other government authorized unique identifier of the tow truck operator.

(c) The information required in this section shall be maintained for three years and shall be available for inspection and copying within 48 hours of a written request by any officer or agent of a police department, a sheriff's department, the Department of the California Highway Patrol, the Attorney General's office, the Bureau of Automotive Repair, a district attorney's office, or a city attorney's office.

(d) For purposes of this section, a new motor vehicle dealer, as defined in Section 426, is not open to the public during hours its repair shop is closed to the public.

(e) A person who willfully violates this section is guilty of a misdemeanor, and is punishable by a fine of not more than two thousand five hundred dollars (\$2,500), or by imprisonment in a county jail for not more than three months, or by both that fine and imprisonment.

Approved _____, 2016

Governor